

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

STEPHANIE M. HOGAN,

Plaintiff,

v.

MICHAEL R. OGDEN; LINDA
BEATH; and CORWIN KING, in
their individual capacities,

Defendants.

NO. CV-06-5078-EFS

PROTECTIVE ORDER

On November 16, 2007, the parties filed a [Proposed] Stipulated Confidentiality Agreement and Protective Order. (Ct. Rec. 56.) Based upon the parties' stipulation, the following protective order is **HEREBY ENTERED**:

1. Certain information and records sought by the parties in discovery or produced or used in this matter are or may be confidential and/or privileged under various state or federal laws. However, disclosure of confidential and/or privileged records and information (in any form) may be appropriate or necessary between the parties for purposes of this lawsuit. The information that the parties may designate

1 as confidential and subject to this Order includes at least the following
2 types of information:

- 3 (a) Medical and financial information of named parties to
4 this lawsuit;
- 5 (b) Social security numbers, personnel and personal
6 information and information exempt from disclosure under
7 state or federal law.

8 2. Any party may designate a document or portion thereof as
9 "confidential" if the party has a good faith and reasonable basis to
10 believe the document (or portion) is private and confidential (for
11 nonexclusive example, exempt from public disclosure). If any party
12 disagrees with the designation, the parties shall first attempt to
13 informally resolve any dispute over whether the information has been
14 properly designated as confidential; if the dispute cannot be resolved,
15 the party designating the information as confidential shall move the
16 Court to determine it is confidential within ten (10) days or, if the
17 Court is unavailable, the first date the Court is available after ten
18 (10) days. Until the Court's ruling, any document designated
19 confidential by any party shall be treated as confidential as provided
20 in this Order.

21 3. To permit the parties a period to review and designate medical
22 records as confidential pursuant to this Order, records produced by
23 medical providers in response to records releases shall be treated as
24 confidential by the parties for the first twenty-one (21) days following
25 their production by the provider. After twenty-one (21) days, those
26 medical records will not be deemed confidential under this Order, unless

1 designated as confidential by a party according to the procedures and
2 limitations of this Order.

3 4. In the case of documents and information contained therein,
4 designation of the document as "confidential" shall be made by the
5 designating party by clearly identifying with particularity the portion
6 of document(s) designated as confidential and marking "CONFIDENTIAL
7 DOCUMENT - PURSUANT TO PROTECTIVE ORDER".

8 5. Whenever any writing, testimony, information, or material
9 designated as "CONFIDENTIAL DOCUMENT - PURSUANT TO PROTECTIVE ORDER" by
10 this stipulation is used or submitted to the Court in conjunction with
11 any filing or proceeding in this litigation, it shall be so marked and
12 shall be filed separately under seal with the Court. Where possible,
13 only Confidential portions of filings with the Court shall be filed under
14 seal.

15 6. Except upon prior written consent of the party whose
16 information may be at issue or upon further order of a court of competent
17 jurisdiction, documents, information, or material designated as
18 "CONFIDENTIAL DOCUMENT - PURSUANT TO PROTECTIVE ORDER" shall be held in
19 strict confidence and shall be used solely for the purposes of
20 prosecution or defense of this litigation. Access to "CONFIDENTIAL"
21 documents, information, or material shall be limited to:

- 22 (a) the Court, including any Court personnel assisting the
23 Court, stenographers or other persons involved in taking
24 or transcribing court or deposition testimony in this
25 action, and members of the jury;
26

- 1 (b) Plaintiff, Defendants and their counsel of record and
2 paralegal, clerical and secretarial employees of counsel
3 of record;
- 4 (c) the officers, directors or employees of a party
5 participating in the prosecution, defense, settlement or
6 other disposition of this action;
- 7 (d) mediators, consultants, experts or litigation support
8 services, including outside copying services, retained by
9 a party for the purpose of assisting that party in this
10 action;
- 11 (e) potential witnesses provided such persons agree to abide
12 and be bound by the terms of this Order;
- 13 (f) any person who is an author, addressee, or recipient of,
14 or who previously had access to, the Confidential
15 Information;
- 16 (g) any other person designated by the Court.

17 7. The parties shall be allowed to use the aforementioned
18 documents in depositions of parties and witnesses, including expert
19 witnesses in this case, provided the witness agrees to be bound by
20 this Order. Any deposition exhibits containing protected information
21 which are filed in Court shall be marked, on the face of the document(s),
22 "CONFIDENTIAL DOCUMENT - PURSUANT TO PROTECTIVE ORDER" and filed under
23 seal in accordance with the Court's procedures.

24 8. The parties shall not, for themselves or for any person or
25 persons acting on their behalf, make more copies of this information or
26 material than are reasonably necessary to conduct this litigation.
Except as otherwise provided for in this Confidentiality Agreement, this

1 information and material shall remain in possession of counsel for the
2 respective parties or the parties themselves, and be stored in a secure
3 place.

4 9. Within thirty (30) business days following any final settlement
5 or the running of any applicable time to appeal the final order entered
6 in this litigation, the parties shall either (i) return all copies of all
7 Confidential information obtained through discovery in this action to the
8 opposing party or (ii) certify that all such materials have been
9 destroyed, except that counsel for each party may retain in its files one
10 copy of each pleading, brief or document filed with the Court, and
11 deposition and trial transcripts and exhibits thereto, and
12 correspondence, subject to the provisions of this Order. Copies of
13 "CONFIDENTIAL" documents that have been filed with the Court may be
14 returned to the filing party by the Clerk of the Court, or destroyed.

15 10. All provisions of this Protective Order shall continue to be
16 binding after the conclusion of this action unless subsequently modified
17 by agreement between the parties or order of the Court and the Court
18 shall retain jurisdiction of this matter for the purpose of enforcing
19 this Protective Order.

20 **IT IS SO ORDERED.** The District Court Executive is directed to enter
21 this Order and distribute copies to counsel.

22 **DATED** this 19th day of November, 2007.

23
24 S/ Edward F. Shea
25 EDWARD F. SHEA
26 United States District Judge

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